IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of PHILIPS STEVEN NEWTON ET AL.	Atty. Docket NL 040286
	Confirmation No. 3013
Serial No. 10/598,988	Group Art Unit: 2456
Filed: SEPTEMBER 18, 2006	Examiner: MCADAMS, BRAD

Title: APPLICATION CONTROLLED REMOTE STORAGE

Mail Stop Appeal Brief-Patents
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellants herewith respectfully present a Brief on Appeal as follows, having filed a Notice of Appeal on January 14, 2009:

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

Appellants and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-10 are pending in this application, where claim 4 had been canceled. Claims 1-10 are rejected in the Final Office Action mailed in October 15, 2008. This rejection was upheld, in the Advisory Action that was mailed on December 22, 2008. Claims 1-10 are the subject of this appeal.

STATUS OF AMENDMENTS

Appellants filed on December 9, 2008 an after final amendment in response to a Final Office Action mailed October 15, 2008. The after final amendment did not include any amendments. In an Advisory Action mailed on December 22, 2008, it is indicated that the after final amendment filed on December 9, 2008 does not place the application in condition for allowance. This Appeal Brief is in response to the Final Office Action mailed October 15, 2008, that finally rejected claims 1-10, which remain finally rejected in the Advisory Action mailed on December 22, 2008.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as recited in independent claim 1, is directed to a method of providing data storage for a user device. As shown in FIG 4a and described on page 9, lines 4-25 of the specification, the method comprises initiating a socket connection between a user device 11, 21 and a remote server 14, shown in FIGs 1-2 and described on page 4, line 31 to page 5, line 28. The method further includes providing an application interface which enables access to a virtual local storage by an application running on the user device by processing a request from the application to store auxiliary data associated with the application in the virtual local storage, and, when a storage request is received, having the auxiliary data stored on the remote server via the network, as shown in FIG 4A and described on page 9, lines 4-25 of the specification.

The present invention, for example, as recited in independent claim 4, is directed to a method of storing auxiliary data from at least one user on a remote server that is connectable to a user

device via a network for providing storage for the user device. As shown in FIG 4a and described on page 9, lines 4-25 of the specification, the method comprises initiating a socket connection by a storage application in the user device 11, 21, shown in FIGs 1-2, in response to a request for access to a virtual local storage by an application running on the user device to store auxiliary data associated with the application in the virtual local storage. The method further includes receiving, via the network, requests for storing auxiliary data from the application running in the user device, and, when a storage request is received, storing the auxiliary data on the remote server, as shown in FIG 4A and described on page 9, lines 4-25 of the specification.

The present invention, for example, as recited in independent claim 7, is directed to a user device 11, 21 as shown in FIGs 1-2 and described on page 4, line 31 to page 5, line 28. As described on page 4, lines 33-34, the user device 11, 21 comprises transceiver means, such as a network interface 15, e.g., a modem, for connecting the user device 11, 21 to a network 12. As described on page 5, lines 5-11, the user device 11, 21 further

comprises control means, such as the control unit 20 shown in FIGs 1-2, for performing applications that may generate auxiliary data relating to the applications, and processing means, such as a control unit 20, for executing a storage application for initiating a socket connection to a remote server via the network.

As shown in FIGs 3 and described on page 6, line 31 to page 7, line 3, and page 8, line 1 to page 9, line 25, the user device 11, 21 further comprises an application interface 35 which enables access to a virtual local storage by an application 31, 35 running on the user device 11, 21 by processing a request from the application to store auxiliary data 33 associated with the application in the virtual local storage, and, when a storage request is received, having the auxiliary data 33 stored on the remote server 14 via the network 12.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-10 of U.S. Patent Application Serial No. 10/598,988 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent Application Publication No. 2004/0204073 (Yanosy) in view of U.S. Patent Application Publication No. 2002/0161934 (Johnson).

ARGUMENT

Claims 1-10 are said to be unpatentable over Yanosya in view of Johnson.

Appellants respectfully request the Board to address the patentability of independent claims 1, 4 and 7, and further claims 2-3, 5-6 and 8-10 as depending from claims 1, 4 and 7, based on the requirements of independent claims 1, 4 and 7. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellants herein specifically reserve the right to argue and address the patentability of claims 2-3, 5-6 and 8-10 at a later date should the separately patentable subject matter of 2-3, 5-6 and 8-10 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent claims 1, 4 and 7 is not intended as a waiver of Appellants' right to argue the patentability of the further claims and claim elements at that later time.

Yanosy is directed to a mobile device 10 that includes a

microprocessor 100, a device profile 101 stored in a local memory 102, a device application 103 and a virtual operating system 104. In operation, the mobile device application 103 requests device augmentation. The request is forwarded from the virtual operating system 104 to a broker 123 that determines an appropriate sharable resource, to be provided by a selected sharable network resource provider, by comparing the device profile 101 with a directory of sharable resources stored in a knowledge base 126. Thus, any access to a remote service provider is in response to a service augmentation.

In stark contrast, the present invention as recited in independent claim 1, and similarly recited in independent claims 4 and 7, amongst other patentable elements recites (illustrative emphasis provided):

> providing an application interface which enables access to a virtual local storage by an application running on the user device by processing a **request** from the application **to store** auxiliary data associated with the application in the virtual local storage, and, **when a storage request is received**, having the auxiliary data stored on the remote server via the network.

Storing data on a remote server in response to a **request to store** data from an application running on the user device is nowhere disclosed or suggested in Yanosy. Rather, Yanosy merely discloses to provide access to a remote service provider is in response to a service augmentation. Johnson is cited to allegedly show other features and do not remedy the deficiencies in Yanosy.

Accordingly, it is respectfully submitted that independent claims 1, 4 and 7 are allowable. In additions, claims 2-3, 5-6 and 8-10 are allowable at least based on their dependence from independent claims 1, 4 and 7.

In addition, Appellants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1-10 are patentable over Yanosy and Johnson.

Thus, the Examiner's rejections of claims 1-10 should be reversed.

Respectfully submitted,

By _____
Dicran Halajian, Reg. 39,703
Attorney for Appellant
March 9, 2009

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

CLAIMS APPENDIX

1.(Previously Presented) A method of providing data storage for a user device, the method comprising the steps acts of:

initiating a socket connection between a user device and a remote server,

providing an application interface which enables access to a virtual local storage by an application running on the user device by processing a request from the application to store auxiliary data associated with the application in the virtual local storage, and, when a storage request is received, having the auxiliary data stored on the remote server via the network.

2.(Previously Presented) The method as claimed in claim 1, wherein having the auxiliary data stored includes storing a user identification, and/or an application identification.

3.(Previously Presented) The method as claimed in claim 1, wherein providing the application interface includes receiving an

application request to read auxiliary data from the virtual local storage, and, when requested, having the auxiliary data retrieved from the remote server via the network.

4.(Previously Presented) A method of storing auxiliary data from at least one user on a remote server that is connectable to a user device via a network for providing storage for the user device, the method comprising the acts of:

initiating a socket connection by a storage application in the user device in response to a request for access to a virtual local storage by an application running on the user device to store auxiliary data associated with the application in the virtual local storage,

receiving, via the network, requests for storing auxiliary data from the application running in the user device, and, when a storage request is received, storing the auxiliary data on the remote server.

5.(Previously Presented) The method as claimed in claim 4,

wherein storing the auxiliary data includes storing a user identification, and/or an application identification.

6.(Previously Presented) A computer readable medium comprising computer program instructions that are executable by a processor to perform the method as claimed in claim 1.

7.(Previously Presented) A user device, comprising:

transceiver means for connecting the user device to a network,

control means for performing applications that may generate auxiliary data relating to the applications, and

processing means for executing a storage application for initiating a socket connection to a remote server via the network, and

providing an application interface which enables access to a virtual local storage by an application running on the user device by processing a request from the application to store auxiliary data associated with the application in the virtual local storage, and, when a storage request is received, having the auxiliary data

stored on the remote server via the network.

8.(Previously Presented) The user device as claimed in claim 7, wherein the device

comprises read means for retrieving data from a storage medium, and

the control means are arranged for retrieving applications to be performed from the storage medium.

9.(Previously Presented) A computer readable medium comprising computer program instructions that are executable by a processor to perform the method as claimed in claim 4.

10.(Previously Presented) The computer readable medium as claimed in claim 9, further comprising computer program instructions that are executable by the processor to generate and transmit at least one stream of real-time information.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None